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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/529,354    09/18/95    FLEISCHMAN    S    1928-D-CON

021836    OM12/0830  
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EXAMINER
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SHAY, D	
ART UNIT	PAPER NUMBER

3739    34  
DATE MAILED:    08/30/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.

08/529354

Applicant(s)

Fleischman

Examiner

F. Fleischman

Group Art Unit

3739

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 7 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☐ Responsive to communication(s) filed on May 19, 1999
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 13, 16, 17, 19, 20, 28, 30, 32-36 & 38-40 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 13, 16, 17, 19, 20, 28, 30, 32-36 & 38-40 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
  - ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
  - ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
  - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 373~~8~~ 9

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13, 16, 19, 20, 28, 30, 33-36, 38, and 39 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Eggers et al ('443).

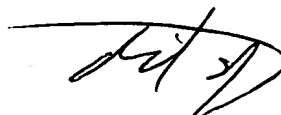
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 32, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egger et al ('443) in combination with Iman. Eggers et al ('443) teaches a device as claimed except for the helical electrode or a strip electrode. Inman teaches a metal strip electrode. It would have been obvious to the artisan of ordinary skill to employ ~~band~~<sup>band</sup> electrodes or helical electrode<sup>s</sup>, and to employ the device in mono-and ~~bipolar~~<sup>bipolar</sup> modes, since these are ~~not~~<sup>not</sup> critical and ~~do~~<sup>do</sup> provide~~d~~ no unexpected result, thus producing a device such as claimed.

Any inquiry concerning this communication should be directed to David Shay at telephone number (703) 308-2215.

David Shay:bhw  
August 20, 1999

  
DAVID M. SHAY  
PRIMARY EXAMINER  
GROUP 330